

AMI.23218

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JANICE WOODS,

Plaintiff,

vs.

**AMICA MUTUAL INSURANCE
COMPANY,**

Defendant.

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§
§
§
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§

Case No. _____

DEFENDANT'S INDEX OF DOCUMENTS

The following Exhibits (A-C) are relied upon and incorporated by reference in Defendant's Notice of Removal:

- A. Civil Cover Sheet;
- B. Supplemental Cover Sheet;
- C. Index of Documents;
 - 1. State Court Docket Sheet;
 - 2. Plaintiff's Original Petition, filed November 21, 2016;
 - 3. Civil Case Information Sheet, filed November 21, 2016;
 - 4. Citation on AMICA, issued November 21, 2016;
 - 5. Return of Service for AMICA, dated December 6, 2016;
 - 6. Defendant AMICA's Original Answer, filed December 21, 2016; and
 - 7. Defendant's Motion for Leave to Designate Responsible Third Party filed January 4, 2017.

Case Information

CC-16-05879-A | JANICE WOODS vs. AMICA MUTUAL INSURANCE COMPANY

Case Number	Court	File Date
CC-16-05879-A	County Court at Law No. 1	11/21/2016
Case Type	Case Status	
DAMAGES (COLLISION)	OPEN	

Party

PLAINTIFF
WOODS, JANICE

Address
870 W. Interstate 30
N/A
Garland TX 75043

Active Attorneys ▼
Lead Attorney
WATSON, PATRICK R
Retained

Work Phone
214-528-6060

Fax Phone
214-528-0712

DEFENDANT
AMICA MUTUAL INSURANCE COMPANY

Address
SERVE ITS REG AGENT:ROBERT R FOSS, JR.
2150 TOWN SQUARE PLACE, SUITE 600
SUGAR LAND TX 77479-1465

Active Attorneys ▼
Lead Attorney
BENNETT, PAUL WILLIAM
Retained

Work Phone
214-987-9600

Fax Phone
214-987-9866

Events and Hearings

11/21/2016 NEW CASE FILED (OCA)

11/21/2016 CORRESPONDENCE - LETTER TO FILE ▼

COVER LETTER

11/21/2016 CIVIL CASE INFORMATION SHEET ▼

CIVIL CASE INFORMATION SHEET

Comment

CIVIL CASE INFORMATION SHEET

11/21/2016 ORIGINAL PETITION ▼

PLAINTIFF'S ORIGINAL PETITION

Comment

PLAINTIFF'S ORIGINAL PETITION

11/21/2016 ISSUE CITATION ▼

ISSUE CITATION

12/01/2016 CITATION (SERVICE) ▼

Anticipated Server

ATTORNEY

Anticipated Method

Actual Server

PRIVATE PROCESS SERVER

Returned

12/13/2016

Comment

PLACED IN BEST & ASSOC BOX 12/1/16

12/13/2016 RETURN OF SERVICE ▼

RETURN OF SERVICE

12/21/2016 ORIGINAL ANSWER ▼

DEFENDANT'S ORIGINAL ANSWER

12/21/2016 JURY TRIAL DEMAND

01/04/2017 MOTION - LEAVE ▼

DEFENDANT'S MOTION FOR LEAVE TO DESIGNATE RESPONSIBLE THIRD

Comment

DEFENDANT'S MOTION FOR LEAVE TO DESIGNATE RESPONSIBLE THIRD PARTY

Financial

WOODS, JANICE

Total Financial Assessment

\$280.00

Total Payments and Credits

\$280.00

11/21/2016 Transaction Assessment

\$280.00

11/21/2016 CREDIT CARD - TEXFILE (CC) Receipt # CV-2016-14096 WOODS, JANICE (\$280.00)

AMICA MUTUAL INSURANCE COMPANY

Total Financial Assessment

\$40.00

Total Payments and Credits

\$40.00

12/21/2016 Transaction Assessment

\$40.00

12/21/2016 CREDIT CARD - TEXFILE (CC) Receipt # CV-2016-15246 AMICA MUTUAL INSURANCE COMPANY (\$40.00)

Documents

COVER LETTER
CIVIL CASE INFORMATION SHEET
PLAINTIFF'S ORIGINAL PETITION
ISSUE CITATION
RETURN OF SERVICE
DEFENDANT'S ORIGINAL ANSWER
DEFENDANT'S MOTION FOR LEAVE TO DESIGNATE RESPONSIBLE THIRD

FACTS

6. On or about January 19, 2016, Plaintiff Janice Woods was traveling northbound on Noel Trail in Dallas, Dallas County, Texas. Maria De Los Angeles Prado, traveling immediately behind Plaintiff was struck in the rear by an unknown vehicle, causing Maria De Los Angeles Prado to collide with Plaintiff's vehicle, damaging Plaintiff's vehicle and inflicting injury upon Plaintiff. The collision and Plaintiff's injuries were proximately caused by the negligence of the unknown driver in the following respects:

- (a) Failure to keep a proper lookout;
- (b) Failure to maintain proper control of the vehicle;
- (c) Failure to sufficiently or properly apply brakes;
- (d) Failure to take proper evasive action to avoid a collision;
- (e) Failure to maintain an assured clear distance between the vehicles;
- (f) Traveling at a rate of speed that was excessive under the circumstances and conditions prevailing at the time of the collision; and
- (g) Driver inattention.

7. As the direct and proximate result of the unknown driver's negligence, Plaintiff was injured. As the result of the unknown driver's negligence, Plaintiff has suffered pain, mental anguish, physical impairment, and a diminished capacity to pursue normal activities. Plaintiff's pain and suffering has continued since the date of the collision and will, in all probability, continue into the future.

8. Plaintiff received reasonable and necessary medical treatment and health care for the injuries she suffered in the collision and will likely continue to receive treatment in the future. As the result of the unknown driver's negligence, Plaintiff has incurred fair, reasonable, usual, and customary medical and health-care expenses for that treatment, and will likely incur additional medical expenses in the future.

CLAIM FOR UNDERINSURED BENEFITS

9. On January 19, 2016, the date of the accident, Plaintiff Janice Woods was covered by insurance issued by Amica Mutual Insurance Company. This policy included coverage for uninsured motorists. Plaintiff Janice Woods is a valid “covered person” under this policy.

10. Defendant was timely informed of the accident and that Plaintiff intended to claim under the uninsured benefits.

11. The driver responsible for this collision is uninsured and therefore liability coverage is insufficient. The injuries sustained by Plaintiff were not the result of intentional acts, but were accidental and caused by the negligence of the unknown driver. Plaintiff hereby seeks recovery for her injuries under uninsured coverage.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Amica Mutual Insurance Company be duly cited to appear and answer herein and that, upon final trial hereof, Plaintiff recovers judgment against Defendant for her damages as set forth above; pre-judgment and post-judgment interest; costs of Court; and such other and further relief to which she may show herself justly entitled, whether at law or in equity.

Respectfully submitted,

BEST, WATSON & GILBERT, P.C.
870 W. I-30, Suite 100
Garland, Texas 75043
prw.watson@yahoo.com
(214) 528-6060
(214) 528-0712 [Telecopier]

By: 

Patrick R. Watson
State Bar No. 00797633

ATTORNEYS FOR PLAINTIFF

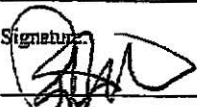
CAUSE NUMBER (FOR CLERK USE ONLY): CC-16-05879-A

COURT (FOR CLERK USE ONLY):

STYLED Janice Woods v. Amica Mutual Insurance Company Page 9 of 20 PageID 17

(e.g., John Smith v. All American Insurance Co.; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:			
Name: <u>Patrick Watson</u> Address: <u>870 W. I-30</u> City/State/Zip: <u>Garland TX 75043</u> Signature:  Email: <u>prw.watson@yahoo.com</u> Telephone: <u>(214) 528-6060</u> Fax: <u>(214) 528-0712</u> State Bar No: <u>05797633</u>		Plaintiff(s)/Petitioner(s): <u>Janice Woods</u> Defendant(s)/Respondent(s): <u>Amica Mutual Insurance Company</u> [Attach additional page as necessary to list all parties]		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____			
2. Indicate case type, or identify the most important issue in the case (select only 1):							
Civil			Family Law				
Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:		Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage:		Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:		Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:		Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:		Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child:			
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax:		Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:					
3. Indicate procedure or remedy, if applicable (may select more than 1):							
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover			
4. Indicate damages sought (do not select if it is a family law case):							
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input checked="" type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000							

**THE STATE OF TEXAS
CITATION**

CAUSE NO. CC-16-05879-A
COUNTY COURT AT LAW NO. 1
Dallas County, Texas

TO:

AMICA MUTUAL INSURANCE COMPANY
SERVE ITS REG AGENT ROBERT R FOSS JR
2150 TOWN SQUARE PLACE SUITE 600
SUGAR LAND TX 77479-1465

"You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and Petition, a default judgment may be taken against you." Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

JANICE WOODS
Plaintiff(s)

VS.

AMICA MUTUAL INSURANCE COMPANY
Defendant(s)

filed in said Court on the 21st day of November, 2016 a copy of which accompanies this citation.

WITNESS: JOHN F. WARREN, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 1st day of December, 2016 A.D.

JOHN F. WARREN, Dallas County Clerk

By Guisla Hernandez, Deputy
Guisla Hernandez



CC - 16 - 05879 - A
CICI
ISSUE CITATION
1287098



**ATTORNEY
CITATION**

CC-16-05879-A

IN THE COUNTY COURT OF DALLAS
County Court at Law No. 1
Dallas County, Texas

JANICE WOODS, *Plaintiff(s)*

VS.

AMICA MUTUAL INSURANCE
COMPANY, *Defendant(s)*

SERVE:

AMICA MUTUAL INSURANCE
COMPANY
SERVE ITS REG AGENT
ROBERT R FOSS JR
2150 TOWN SQUARE PLACE SUITE
600
SUGAR LAND TX 77479-1465

**ISSUED THIS
1ST DAY OF DECEMBER, 2016**

JOHN F. WARREN, COUNTY CLERK
BY: GUISLA HERNANDEZ, DEPUTY

Attorney for Plaintiff

PATRICK R WATSON
870 W I-30
SUITE 100
GARLAND TX 75043
214-528-6060

IF OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK

OFFICER'S RETURN

CC-16-05879-A County Court at Law No. 1

JANICE WOODS vs. AMICA MUTUAL INSURANCE COMPANY

ADDRESS FOR SERVICE:

SERVE ITS REG AGENT ROBERT R FOSS JR
2150 TOWN SQUARE PLACE SUITE 600
SUGAR LAND TX 77479-1465

Fees:

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ m., and executed in _____ County, Texas by delivering to AMICA MUTUAL INSURANCE COMPANY in person, a true copy of this Citation together with the accompanying copy of the Petition with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

_____ and the cause or failure to execute this process is:

_____ and the information received as to the whereabouts of said defendant(s) being:

Serving Petition and Copy \$ _____, Officer

Total \$ _____, County, Texas

By: _____, Deputy

_____, Affiant

**THE STATE OF TEXAS
CITATION**

CAUSE NO. CC-16-05879-A
COUNTY COURT AT LAW NO. 1
Dallas County, Texas

TO:

AMICA MUTUAL INSURANCE COMPANY
SERVE ITS REG AGENT ROBERT R FOSS JR
2150 TOWN SQUARE PLACE SUITE 600
SUGAR LAND TX 77479-1465

"You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and Petition, a default judgment may be taken against you." Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

JANICE WOODS
Plaintiff(s)

VS.

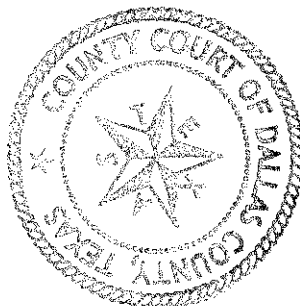
AMICA MUTUAL INSURANCE COMPANY
Defendant(s)

filed in said Court on the 21st day of November, 2016a copy of which accompanies this citation.

WITNESS: JOHN F. WARREN, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 1st day of December, 2016 A.D.

JOHN F. WARREN, Dallas County Clerk

By Guisla Hernandez, Deputy
Guisla Hernandez



ATTORNEY

CITATION

CC-16-05879-A

IN THE COUNTY COURT OF DALLAS
County Court at Law No. 1
Dallas County, Texas

JANICE WOODS, *Plaintiff(s)*

VS.

AMICA MUTUAL INSURANCE
COMPANY, *Defendant(s)*

SERVE:

AMICA MUTUAL INSURANCE
COMPANY
SERVE ITS REG AGENT
ROBERT R FOSS JR
2150 TOWN SQUARE PLACE SUITE
600
SUGAR LAND TX 77479-1465

**ISSUED THIS
1ST DAY OF DECEMBER, 2016**

JOHN F. WARREN, COUNTY CLERK
BY: GUISLA HERNANDEZ, DEPUTY

Attorney for Plaintiff

PATRICK R WATSON
870 W I-30
SUITE 100
GARLAND TX 75043
214-528-6060

IN THE COUNTY COURT AT LAW NUMBER ONE
DALLAS COUNTY, TEXAS

CAUSE NO. CC-16-05879-A

JANICE WOODS
VS
AMICA MUTUAL INSURANCE COMPANY

AFFIDAVIT OF RETURN

Came to my hand: 12/06/2016, at 07:08 o'clock A.M., the following specified documents:

- Citation
- Plaintiff's Original Petition
- Plaintiff's Request For Disclosure, First Set Of Written Interrogatories, Request For Production and Request For Admissions To Defendant

and executed by me on 12/06/2016 at 10:20 o'clock, A.M., at, 2150 TOWN SQUARE PLACE SUITE 600, SUGAR LAND, TX 77479 within the county of FORT BEND, by delivering to AMICA MUTUAL INSURANCE COMPANY SERVE ITS REG AGENT ROBERT R FOSS JR in person, a true copy of the above specified Citation/Petition.

I am over the age of 18, not a party to nor interested in the outcome of the above style and numbered suit: and I certify that the facts of service reported herein are true and correct.



Authorized Person: Ernest D. Brown SCH# 11524

Expiration Date: 06/30/2018

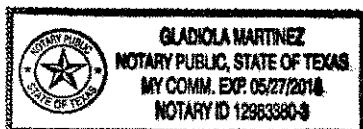
BROWN, E. & ASSOCIATES

20825 Southwest Freeway #111, Sugar Land, TX 77479

STATE OF TEXAS)

VERIFICATION

Before me, a notary public, on this day personally appeared the above named Authorized person, known to me to be the person whose name is subscribed to the foregoing documents and, being by me first duly sworn, declared that the statements/fact therein contained are within his/her personal knowledge and experience to be true and correct. Given under my hand and seal of office on this the 6 day of December, 2016.


NOTARY PUBLIC

AMI.23218

CAUSE NO. CC-16-05879-A

JANICE WOODS	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
VS.	§	AT LAW NO. 1
	§	
AMICA MUTUAL INSURANCE	§	
COMPANY	§	
Defendant.	§	DALLAS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Amica Mutual Insurance Company, Defendant in the above-entitled and numbered cause, and files this its Original Answer to Plaintiff's pleadings on file herein, and in support thereof would respectfully shows the Court as follows:

I.

Pursuant to Rule 92 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant denies generally each and every allegation and statement contained in *Plaintiff's Original Petition*, and any amendments thereto, and demands strict proof thereof.

II.

For further answer, Defendant specifically denies that all conditions precedent to recovery have been met.

III.

For further answer, if necessary, Defendant would show that Plaintiff's claims are controlled and limited by the Texas Supreme Court's holding in *Brainard v. Trinity Universal Insurance Company*, 216 S.W.3d 809 (Tex. 2006) and subsequent cases.

IV.

For further answer, Defendant affirmatively asserts and pleads the defense of contributory negligence/comparative responsibility. Defendant would further show that the negligence of a non-party, Maria Prado, who failed to maintain an assured safe distance between vehicles and was traveling at an unsafe speed, was the proximate cause of the accident in question and Plaintiff's injuries and damages, if any. As such, she is a responsible third party whose negligence should be submitted to the trier of fact.

V.

For further answer, Defendant invokes the provisions of Section 41.0105 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE limiting Plaintiff's recovery of medical or healthcare expenses to the amount actually paid or incurred. Further, pursuant to Section 18.091 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE, any evidence of economic loss, including lost wages, loss of earning capacity and a loss of contributions of a pecuniary value, must be in a form of a net loss after reduction for federal income tax payments or unpaid tax liability.

VI.

Defendant further pleads that it is entitled to all off-sets and credits against damages as may be allowed by the subject insurance policy and/or applicable law.

Jury Demand

Defendant hereby, in accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, demands a trial by jury. Simultaneously with the filing of this demand, a jury fee is being paid on behalf of Defendant.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that Plaintiff take nothing by this suit, that Defendant recover its costs, and for such other and further relief, both at law and in equity, to which Defendant may be justly entitled.

Respectfully submitted,

**FLETCHER, FARLEY,
SHIPMAN & SALINAS, L.L.P.**

By: /s/ Paul W. Bennett

PAUL W. BENNETT

State Bar No. 00787071

paul.bennett@fletcherfarley.com

ALEX J. BELL

State Bar No. 24069359

alex.bell@fletcherfarley.com

9201 N. Central Expwy., 6th Floor

Dallas, Texas 75231

214-987-9600 (telephone)

214-987-9866 (facsimile)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing instrument has been mailed, telecopied, electronically served, or hand delivered to all attorneys of record in this cause of action on the 22nd day of December, 2016.

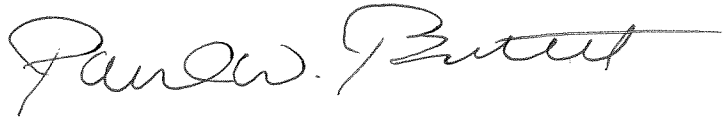
/s/ Paul W. Bennett

PAUL W. BENNETT

VERIFICATION

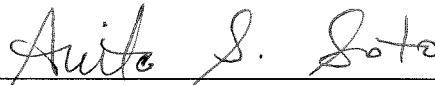
THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

BEFORE ME, the undersigned Notary Public, on this day personally appeared **PAUL W. BENNETT**, who being by me duly sworn on his oath deposed and said that he is the attorney of record for the Defendant, and that he is duly qualified and authorized in all respects to make this Affidavit; that he has read Paragraphs II and III of the above and foregoing Defendant's Original Answer; and that every statement contained therein is within his knowledge and is true and correct.



PAUL W. BENNETT

SWORN TO AND SUBSCRIBED BEFORE ME on this the 21st day of December, 2016, to certify which witness my hand and seal of office.



**NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS**



My Commission Expires:

11-02-2017

AMI.23218

CAUSE NO. CC-16-05879-A

JANICE WOODS	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
VS.	§	AT LAW NO. 1
	§	
AMICA MUTUAL INSURANCE	§	
COMPANY	§	
Defendant.	§	DALLAS COUNTY, TEXAS

**DEFENDANT'S MOTION FOR LEAVE
TO DESIGNATE RESPONSIBLE THIRD PARTY**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES AMICA MUTUAL INSURANCE COMPANY, Defendant, and files this Motion for Leave to Designate a Responsible Third Party and for the same would respectfully show unto the Court as follows:

A. Introduction

This case arises out of a motor vehicle accident occurring on or about January 19, 2016 in Dallas. Plaintiff sued Defendant alleging that a vehicle, operated by some unknown and uninsured motorist, struck a vehicle behind Plaintiff causing it to be pushed into the vehicle operated by Plaintiff. Defendant denies such allegations.

This case is not currently set for trial, and Defendant files this motion at least 60 days before the date set for trial.

B. Facts

In Plaintiff's Original Petition, she alleges that she was traveling northbound on Noel Road in Dallas on January 19, 2016 when "Maria De Los Angeles Prado, traveling immediately behind Plaintiff was struck in the rear by an unknown vehicle," causing Ms. Prado's car to collide with the rear of Plaintiff's vehicle. Plaintiff contends that the accident occurred and that she sustained injuries and damages as a proximate result of the negligence of the unknown and uninsured driver. Plaintiff contends that she is entitled to uninsured motorist benefits per a

policy of insurance issued by Defendant. Defendant denies all such allegations. Defendant would show that the accident and Plaintiff's injuries and damages, if any, were proximately caused by the negligence of of Maria De Los Angeles Prado who, among other things, failed to keep a safe distance between her car and Plaintiff's car, failed to timely apply her brakes, and who was traveling at an unsafe speed. Further, Defendant would show that Maria De Los Angeles Prado was not an uninsured motorist; to wit, on information and belief she was insured under a liability policy issued by Infinity County Mutual Insurance Company.

C. Argument & Authorities

Defendant would show that Maria De Los Angeles Prado is a responsible third party within the meaning of Texas Civil Practice & Remedies Code section 33.011(6) because she caused or contributed to Plaintiff's harm for which recovery of damages is sought. Her responsibility should be submitted to the trier of fact. Defendant respectfully moves the Court to designate Maria De Los Angeles Prado as a responsible third party and submit her responsibility to the trier of fact at trial.

D. Prayer

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court grant this Motion and enter an Order designating Maria De Los Angeles Prado as a responsible third party, as that term is defined in the Texas Civil Practice and Remedies Code, that her responsibility be submitted to the trier of fact at the trial of this cause, and for all other relief to which it may show itself justly entitled.

Respectfully submitted,

**FLETCHER, FARLEY,
SHIPMAN & SALINAS, L.L.P.**

BY: /s/ Paul W. Bennett

PAUL W. BENNETT

State Bar No. 00787071

paul.bennett@fletcherfarley.com

ALEX J. BELL

State Bar No. 24069359

alex.bell@fletcherfarley.com

9201 N. Central Expressway, Suite 600

Dallas, Texas 75231

(214) 987-9600 (office)

(214) 987-9866 (telecopier)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been mailed, telecopied, electronically served or hand delivered to all attornes of record, in compliance with Rule 21a. of the Texas Rules of Civil Procedure, on this the 4th day of January, 2017.

/s/ Paul W. Bennett

PAUL W. BENNETT